

AMENDED IN ASSEMBLY APRIL 28, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 62

Introduced by Assembly Member Monning

December 7, 2010

An act to ~~add Article 5.227 (commencing with Section 14168) to Chapter 7 of Part 3 of Division 9~~ amend Section 14132.275 of the Welfare and Institutions Code, relating to Medi-Cal, ~~making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 62, as amended, Monning. Medi-Cal: hospitals: quality assurance fee. ~~dual eligibles: pilot projects.~~

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions. *Existing federal law provides for the federal Medicare Program, which is a public health insurance program for persons 65 years of age and older and specified persons with disabilities who are under 65 years of age. Existing law, to the extent that federal financial participation is available, and pursuant to a demonstration project or waiver of federal law, requires the department to establish pilot projects in up to 4 counties, to develop effective health care models to provide services to persons who are dually eligible under both the Medi-Cal and Medicare programs. Existing law requires the department to, not sooner than March 1, 2011, identify health care models that may be included in a pilot project, develop a timeline and process for selecting,*

financing, monitoring, and evaluating the pilot projects, and provide this timeline and process to certain committees of the Legislature.

This bill would provide that, in relation to the requirement that the department seek federal approval to establish the pilot projects, the department may seek federal approval pursuant to a response to a request for proposal from the federal Centers for Medicare and Medicaid Services. This bill would require the department to consult with stakeholders, including, among others, representatives of advocacy organizations, persons with disabilities, seniors, and representatives of legal services agencies that serve dual eligibles on a regular basis throughout the development and implementation of the pilot projects.

~~Existing law, subject to federal approval, requires the department to make supplemental payments for certain services, as specified, to private hospitals, nondesignated public hospitals, and designated public hospitals, as defined, for subject federal fiscal years.~~

~~Existing law, subject to federal approval, also imposes a quality assurance fee, as specified, on certain general acute care hospitals through and including December 31, 2010. Existing law creates the Hospital Quality Assurance Revenue Fund in the State Treasury and requires that the money collected from the quality assurance fee be deposited into the fund. Existing law provides that the moneys in the fund shall, upon appropriation by the Legislature, be available only for certain purposes, including providing the above-described supplemental payments to hospitals and health care coverage for children.~~

~~Existing law, effective January 1, 2011, and subject to subsequent statutory authorization that meets certain conditions, imposes a quality assurance fee in a manner necessary to obtain federal Medicaid matching funds that shall be due and payable to the department by each general acute care hospital at specified rates for the purpose of making Medi-Cal payments to hospitals.~~

~~This bill would, effective July 1, 2011, impose on each general acute care hospital that is not an exempt facility, as defined, a quality assurance fee. This bill would require the quality assurance fee to be computed starting on the effective date of the bill and continue through and including October 31, 2015. The bill would require the proceeds from the fee to be used for the same purposes as the above-described quality assurance fee that is imposed on hospitals through and including December 31, 2010. The bill would provide that the method of calculation and collection of the quality assurance fee is to be determined in an unspecified manner.~~

~~This bill would require the director to seek federal approvals or waivers as may be necessary to implement the above-described provisions and to obtain federal financial participation to the maximum extent possible with the proceeds from the quality assurance fee paid pursuant to those provisions.~~

~~This bill would require the fee payments and any related federal reimbursement to be deposited in the Hospital Quality Assurance Revenue Fund. The bill would continuously appropriate these moneys in an unspecified manner.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: ~~yes~~-no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14132.275 of the Welfare and Institutions
2 Code is amended to read:
3 14132.275. (a) The department shall seek federal approval to
4 establish pilot projects described in this section pursuant to a
5 Medicare or a Medicaid demonstration project or waiver, ~~or a~~
6 combination thereof, *or in response to a request for proposal from*
7 *the federal Centers for Medicare and Medicaid Services.* Under a
8 Medicare demonstration, the department may operate the Medicare
9 component of a pilot project as a delegated Medicare benefit
10 administrator, and may enter into financing arrangements with the
11 federal Centers for Medicare and Medicaid Services to share in
12 any Medicare program savings generated by the operation of any
13 pilot project.
14 (b) After federal approval is obtained, the department shall
15 establish pilot projects that enable dual eligibles to receive a
16 continuum of services, and that maximize the coordination of
17 benefits between the Medi-Cal and Medicare programs and access
18 to the continuum of services needed. The purpose of the pilot
19 projects is to develop effective health care models that integrate
20 services authorized under the federal Medicaid Program (Title
21 XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et
22 seq.)) and the federal Medicare Program (Title XVIII of the federal
23 Social Security Act (42 U.S.C. Sec. 1395 et seq.)). These pilot

1 projects may also include additional services as approved through
2 a demonstration project or waiver, or a combination thereof.

3 (c) Not sooner than March 1, 2011, the department shall identify
4 health care models that may be included in a pilot project, shall
5 develop a timeline and process for selecting, financing, monitoring,
6 and evaluating these pilot projects, and shall provide this timeline
7 and process to the appropriate fiscal and policy committees of the
8 Legislature. The department may implement these pilot projects
9 in phases.

10 (d) Goals for the pilot projects shall include all of the following:

11 (1) Coordinating Medi-Cal benefits, Medicare benefits, or both,
12 across health care settings and improving continuity of acute care,
13 long-term care, and home- and community-based services.

14 (2) Coordinating access to acute and long-term care services
15 for dual eligibles.

16 (3) Maximizing the ability of dual eligibles to remain in their
17 homes and communities with appropriate services and supports in
18 lieu of institutional care.

19 (4) Increasing the availability of and access to home- and
20 community-based alternatives.

21 (e) Pilot projects shall be established in up to four counties, and
22 shall include at least one county that provides Medi-Cal services
23 via a two-plan model pursuant to Article 2.7 (commencing with
24 Section 14087.3) and at least one county that provides Medi-Cal
25 services under a county organized health system pursuant to Article
26 2.8 (commencing with Section 14087.5). In determining the
27 counties in which to establish a pilot project, the director shall
28 consider the following:

29 (1) Local support for integrating medical care, long-term care,
30 and home- and community-based services networks.

31 (2) A local stakeholder process that includes health plans,
32 providers, community programs, consumers, and other interested
33 stakeholders in the development, implementation, and continued
34 operation of the pilot project.

35 (f) The director may enter into exclusive or nonexclusive
36 contracts on a bid or negotiated basis and may amend existing
37 managed care contracts to provide or arrange for services provided
38 under this section. Contracts entered into or amended pursuant to
39 this section shall be exempt from the provisions of Chapter 2
40 (commencing with Section 10290) of Part 2 of Division 2 of the

Public Contract Code and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of *Title 2* of the Government Code.

(g) Services under Section 14132.95; *or* 14132.952, or Article 7 (commencing with Section 12300) of Chapter 3 that are provided under the pilot projects established by this section shall be provided through direct hiring of personnel, contract, or establishment of a public authority or nonprofit consortium, in accordance with, and subject to, the requirements of Section 12302 or 12301.6, as applicable.

(h) Notwithstanding any other provision of state law, the department may require that dual eligibles be assigned as mandatory enrollees into managed care plans established or expanded as part of a pilot project established under this section. Mandatory enrollment in managed care for dual eligibles shall be applicable to the beneficiary's Medi-Cal benefits only. Dual eligibles shall have the option to enroll in a Medicare Advantage special needs plan (SNP) offered by the managed care plan established or expanded as part of a pilot project established pursuant to *subdivision* (e). To the extent that mandatory enrollment is required, any requirement of the department and the health plans, and any requirement of continuity of care protections for enrollees, as specified in Section 14182, shall be applicable to this section. Dual eligibles shall have the option to forgo receiving Medicare benefits under a pilot project. Nothing in this section shall be interpreted to reduce benefits otherwise available under the Medi-Cal program or the Medicare Program.

(i) For purposes of this section, a "dual eligible" means an individual who is simultaneously eligible for full scope benefits under Medi-Cal and the federal Medicare Program.

(j) Persons meeting requirements for *the* Program of All-Inclusive Care for the Elderly (PACE) pursuant to Chapter 8.75 (commencing with Section 14590), may select a PACE plan if one is available in that county.

(k) Notwithstanding Section 10231.5 of the Government Code, the department shall conduct an evaluation to assess outcomes and the experience of dual eligibles in these pilot projects and shall provide a report to the Legislature after the first full year of pilot operation, and annually thereafter. A report submitted to the Legislature pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code. The

1 department shall consult with stakeholders regarding the scope
2 and structure of the evaluation.

3 (l) This section shall be implemented only if and to the extent
4 that federal financial participation or funding is available to
5 establish these pilot projects.

6 (m) *The department shall consult with stakeholders, including,*
7 *but not limited to, representatives of advocacy organizations,*
8 *persons with disabilities, seniors, representatives of legal services*
9 *agencies that serve dual eligibles, specialty care providers,*
10 *provider associations, labor, health plans, county government,*
11 *and the Legislature, on a regular basis throughout the development*
12 *and implementation of the pilot projects.*

13 ~~(m)~~

14 (n) Notwithstanding Chapter 3.5 (commencing with Section
15 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
16 the department may implement, interpret, or make specific this
17 section and any applicable federal waivers and state plan
18 amendments by means of all-county letters, plan letters, plan or
19 provider bulletins, or similar instructions, without taking regulatory
20 action. Prior to issuing any letter or similar instrument authorized
21 pursuant to this section, the department shall notify and consult
22 with stakeholders, including advocates, providers, and
23 beneficiaries. The department shall notify the appropriate policy
24 and fiscal committees of the Legislature of its intent to issue
25 instructions under this section at least five days in advance of the
26 issuance.

27 ~~SECTION 1. Article 5.227 (commencing with Section 14168)~~
28 ~~is added to Chapter 7 of Part 3 of Division 9 of the Welfare and~~
29 ~~Institutions Code, to read:~~

30
31 ~~Article 5.227. Quality Assurance Fee Act~~
32

33 ~~14168. (a) (1) "Exempt facility" means any of the following:~~
34 ~~(A) A public hospital, which shall include either of the~~
35 ~~following:~~

36 ~~(i) A hospital, as defined in paragraph (25) of subdivision (a)~~
37 ~~of Section 14105.98.~~

38 ~~(ii) A tax-exempt nonprofit hospital that is licensed under~~
39 ~~subdivision (a) of Section 1250 of the Health and Safety Code and~~
40 ~~operating a hospital owned by a local health care district, and is~~

1 affiliated with the health care district hospital owner by means of
2 the district's status as the nonprofit corporation's sole corporate
3 member.

4 (B) With the exception of a hospital that is in the Charitable
5 Research Hospital peer group, as set forth in the 1991 Hospital
6 Peer Grouping Report published by the department, a hospital that
7 is a hospital designated as a specialty hospital in the hospital's
8 Office of Statewide Health Planning and Development Hospital
9 Annual Disclosure Report for the hospital's fiscal year ending in
10 the 2007 calendar year.

11 (C) A hospital that satisfies the Medicare criteria to be a
12 long-term care hospital.

13 (D) A small and rural hospital as specified in Section 124840
14 of the Health and Safety Code designated as that in the hospital's
15 Office of Statewide Health Planning and Development Hospital
16 Annual Disclosure Report for the hospital's fiscal year ending in
17 the 2007 calendar year.

18 (2) "General acute care hospital" means any hospital licensed
19 pursuant to subdivision (a) of Section 1250 of the Health and Safety
20 Code.

21 (b) Effective July 1, 2011, there shall be imposed on each
22 general acute care hospital that is not an exempt facility a quality
23 assurance fee.

24 (c) (1) The quality assurance fee shall be computed starting on
25 the effective date of this article and continue through and including
26 October 31, 2015.

27 (2) The method of calculation and collection of the quality
28 assurance fee shall be determined pursuant to ____.

29 (3) The quality assurance fee shall be used solely for the
30 purposes specified in Article 5.21 (commencing with Section
31 14167.1) and Article 5.22 (commencing with Section 14167.31).

32 (d) The director shall do all of the following:

33 (1) Seek federal approvals or waivers as may be necessary to
34 implement this article.

35 (2) Obtain federal financial participation to the maximum extent
36 possible with the proceeds from the quality assurance fee paid
37 pursuant to this article.

38 (e) (1) The fee payments and any related federal reimbursement
39 shall be deposited in the Hospital Quality Assurance Revenue
40 Fund.

~~(2) Notwithstanding Section 13340 of the Government Code, any moneys deposited in the Hospital Quality Assurance Revenue Fund pursuant to paragraph (1) shall be continuously appropriated, without regard to fiscal year, as follows:_____.~~

~~SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:~~

~~In order to make the necessary statutory changes to increase Medi-Cal payments to health care providers and improve access, at the earliest possible time, it is necessary that this act take effect immediately.~~